

House Study Bill 21

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL BY
CHAIRPERSON ELGIN)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the recognition and registration of
2 professional employer organizations.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1396HC 81
5 kk/gg/14

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1 1 Section 1. NEW SECTION. 95.1 PURPOSE AND INTENT.
1 2 The general assembly finds that professional employer
1 3 organizations provide a valuable service to commerce and the
1 4 citizens of this state by increasing the opportunities of
1 5 employers to develop cost-effective methods of satisfying
1 6 their personnel requirements and providing employees with
1 7 access to certain employment benefits which might otherwise
1 8 not be available to them.
1 9 The general assembly further finds that professional
1 10 employer organizations operating in this state should be
1 11 properly recognized and regulated by the department of
1 12 workforce development, as provided in this chapter, and that
1 13 any allocation of the employer duties and responsibilities
1 14 pursuant to this chapter will preserve all rights to which
1 15 covered employees would be entitled under a traditional
1 16 employment relationship.
1 17 Sec. 2. NEW SECTION. 95.2 DEFINITIONS.
1 18 As used in this chapter, unless the context otherwise
1 19 requires:
1 20 1. "Administrative fee" means the fee charged to a client
1 21 by a professional employer organization for professional
1 22 employer services. However, the administrative fee shall not
1 23 be deemed to include any amount of a fee by the professional
1 24 employer organization that is for wages and salaries,
1 25 benefits, workers' compensation, payroll taxes, withholding,
1 26 or other assessments paid by the professional employer
1 27 organization to or on behalf of covered employees under the
1 28 professional employer agreement.
1 29 2. "Client" means any person who enters into a
1 30 professional employer agreement with a professional employer
1 31 organization.
1 32 3. "Coemployer" means either a professional employer
1 33 organization or a client.
1 34 4. "Coemployment relationship" means all of the following:
1 35 a. As between coemployers, a relationship whereby the
2 1 rights, duties, and obligations of an employer which arise out
2 2 of an employment relationship have been allocated between
2 3 coemployers pursuant to a professional employer agreement and
2 4 this chapter, and which is intended to be an ongoing
2 5 relationship, rather than a temporary or project-specific
2 6 relationship.
2 7 b. As between each professional employer organization and
2 8 a covered employee as to whom a professional employer
2 9 agreement applies, an employment relationship whereby such
2 10 professional employer organization is entitled to enforce
2 11 those rights, and obligated to perform those duties and
2 12 obligations, allocated to such professional employer
2 13 organization by the professional employer agreement and this
2 14 chapter.
2 15 c. As between each client and a covered employee to whom a
2 16 professional employer agreement applies, an employment
2 17 relationship whereby such client is entitled to enforce those
2 18 rights, and obligated to provide and perform those employer

2 19 obligations allocated to such client by the professional
2 20 employer agreement and this chapter and whereby such client is
2 21 responsible for any employer right or obligation not otherwise
2 22 allocated by the professional employer agreement or this
2 23 chapter.

2 24 d. As to rights enforceable by an employee under state
2 25 law, covered employees shall be entitled to enforce against
2 26 the professional employer organization all of the following
2 27 rights:

2 28 (1) Those allocated to such professional employer
2 29 organization by the professional employer agreement and this
2 30 chapter.

2 31 (2) Those shared by the professional employer organization
2 32 and the client under the professional employer agreement and
2 33 this chapter.

2 34 (3) All other rights, duties, and obligations enforceable
2 35 by an employee against the client pursuant to state law.

3 1 5. "Covered employee" means an individual having a
3 2 coemployment relationship with a professional employer
3 3 organization and a client who meets both of the following
3 4 criteria:

3 5 a. The individual is a party to a coemployment
3 6 relationship with a professional employer organization and a
3 7 client.

3 8 b. The individual's coemployment relationship is pursuant
3 9 to a professional employer agreement subject to this chapter.

3 10 Individuals who are officers, directors, shareholders,
3 11 partners, and managers of the client will be covered employees
3 12 to the extent the professional employer organization and the
3 13 client have expressly agreed in the professional employer
3 14 agreement that such individuals would be covered employees and
3 15 provided such individuals meet the criteria of this subsection
3 16 and act as operational managers or perform services for the
3 17 client.

3 18 6. "Department" means the department of workforce
3 19 development.

3 20 7. "Director" means the director of the department of
3 21 workforce development.

3 22 8. "Person" means a person as defined in section 4.1.

3 23 9. "Professional employer agreement" means a written
3 24 contract by and between a client and a professional employer
3 25 organization that provides all of the following:

3 26 a. For the coemployment of covered employees.

3 27 b. For the allocation and sharing between the client and
3 28 the professional employer organization employer
3 29 responsibilities, including hiring, firing, and disciplining,
3 30 with respect to the covered employees.

3 31 c. That the professional employer organization and the
3 32 client assume the responsibilities required by this chapter.

3 33 10. "Professional employer organization" means any person
3 34 engaged in the business of providing professional employer
3 35 services.

4 1 a. A person engaged in the business of providing
4 2 professional employer services shall be subject to
4 3 registration under this chapter regardless of its use of the
4 4 term "professional employer organization", "PEO", "staff
4 5 leasing company", "registered staff leasing company",
4 6 "employee leasing company", or any other similar name.

4 7 b. None of the following shall be deemed to be a
4 8 professional employer organization or professional employer
4 9 services for purposes of this chapter:

4 10 (1) Arrangements by which a person, whose principal
4 11 business activity is not entering into professional employer
4 12 arrangements and who does not hold itself out as a
4 13 professional employer organization, shares employees with a
4 14 commonly owned company within the meaning of section 414(b)
4 15 and (c) of the Internal Revenue Code of 1986, as amended.

4 16 (2) Arrangements by which a person assumes responsibility
4 17 for the product produced or service performed by such person
4 18 or the person's agents and retains and exercises primary
4 19 direction and control over the work performed by the
4 20 individuals whose services are supplied under such
4 21 arrangements.

4 22 (3) Providing temporary help services.

4 23 11. "Professional employer services" means the service of
4 24 entering into coemployment relationships under this chapter in
4 25 which all or a majority of the employees providing services to
4 26 a client or to a division or work unit of a client are covered
4 27 employees.

4 28 12. "Registrant" means a professional employer
4 29 organization registered under this chapter.

4 30 13. "Temporary help services" means services pursuant to
4 31 which a person does all of the following:
4 32 a. Recruits and hires employees.
4 33 b. Finds other organizations that need the services of
4 34 those employees.
4 35 c. Assigns those employees to perform work or services for
5 1 the other organizations to support or supplement the other
5 2 organizations' workforces, or to provide assistance in special
5 3 work situations such as, but not limited to, employee
5 4 absences, skill shortages, seasonal workloads, or to perform
5 5 special assignments or projects.
5 6 d. Customarily attempts to reassign the employees to other
5 7 organizations when they finish each assignment.

5 8 Sec. 3. NEW SECTION. 95.3 RIGHTS, DUTIES, AND
5 9 OBLIGATIONS.

5 10 1. COLLECTIVE BARGAINING AGREEMENTS. Nothing contained in
5 11 this chapter or in any professional employer agreement shall
5 12 affect, modify, or amend any collective bargaining agreement
5 13 or the rights or obligations of any client, professional
5 14 employer organization, or covered employee under the federal
5 15 National Labor Relations Act, the federal Railway Labor Act,
5 16 or the public employment relations Act in chapter 20.

5 17 2. LICENSING.

5 18 a. Nothing contained in this chapter or any professional
5 19 employer agreement shall affect, modify, or amend any state,
5 20 local, or federal licensing, registration, or certification
5 21 requirement applicable to any client or covered employee. A
5 22 covered employee who must be licensed, registered, or
5 23 certified according to law or regulation is deemed solely an
5 24 employee of the client for purposes of any such license,
5 25 registration, or certification requirement.

5 26 b. A professional employer organization shall not be
5 27 deemed to engage in any occupation, trade, profession, or
5 28 other activity that is subject to licensing, registration, or
5 29 certification requirements, or is otherwise regulated by a
5 30 governmental entity solely by entering into and maintaining a
5 31 coemployment relationship with a covered employee who is
5 32 subject to such requirements or regulation.

5 33 c. Unless otherwise expressly agreed to by the client in
5 34 the professional employer agreement, a client shall have the
5 35 sole right to direct and control the professional or licensed
6 1 activities of covered employees and of the client's business.

6 2 3. TAX CREDITS AND OTHER INCENTIVES. For purposes of
6 3 determination of tax credits and other economic incentives
6 4 provided by this state and based on employment, covered
6 5 employees shall be deemed employees solely of the client. A
6 6 client shall be entitled to the benefit of any tax credit,
6 7 economic incentive, or other benefit arising as the result of
6 8 the employment of covered employees of such client. If the
6 9 grant or amount of any such incentives is based on the number
6 10 of employees, then each client shall be treated as employing
6 11 only those covered employees actually working in the client's
6 12 business operations and covered employees working for other
6 13 clients of the professional employer organization shall not be
6 14 counted. Each professional employer organization shall
6 15 provide, upon request by a client or an agency or department
6 16 of this state, employment information reasonably required by
6 17 any agency or department of this state responsible for
6 18 administration of any such tax credit or economic incentive
6 19 and necessary to support any request, claim, application, or
6 20 other action by a client seeking any such tax credit or
6 21 economic incentive.

6 22 4. DISADVANTAGED BUSINESS. With respect to a bid,
6 23 contract, purchase order, or agreement entered into with the
6 24 state or a political subdivision of the state, a client
6 25 company's status or certification as a small, minority-owned,
6 26 disadvantaged, or woman-owned business enterprise or as a
6 27 historically underutilized business is not affected because
6 28 the client company has entered into an agreement with a
6 29 registrant or uses the services of a registrant.

6 30 Sec. 4. NEW SECTION. 95.4 REGISTRATION REQUIREMENTS.

6 31 1. REGISTRATION REQUIRED. Except as otherwise provided in
6 32 this chapter, a person shall not provide, advertise, or
6 33 otherwise hold itself out as providing professional employer
6 34 services in this state, unless such person is registered under
6 35 this chapter.

7 1 2. REGISTRATION INFORMATION. Each applicant for
7 2 registration under this chapter shall provide the department
7 3 with all of the following information:

7 4 a. The name or names under which the professional employer
7 5 organization conducts business.

7 6 b. The address of the principal place of business of the
7 7 professional employer organization and the address of each
7 8 office it maintains in this state.

7 9 c. The professional employer organization's taxpayer or
7 10 employer identification number.

7 11 d. A list by jurisdiction of each name under which the
7 12 professional employer organization has operated in the
7 13 preceding five years, including any alternative names, names
7 14 of predecessors, and if known, successor business entities.

7 15 e. A statement of ownership, which shall include the name
7 16 and evidence of the business experience of any person that,
7 17 individually or acting in concert with one or more other
7 18 persons, owns or controls, directly or indirectly, twenty-five
7 19 percent or more of the equity interests of the professional
7 20 employer organization.

7 21 f. A statement of management, which shall include the name
7 22 and evidence of the business experience of any person who
7 23 serves as president, chief executive officer, or otherwise has
7 24 the authority to act as senior executive officer of the
7 25 professional employer organization.

7 26 g. A financial statement setting forth the financial
7 27 condition of the professional employer organization, as of a
7 28 date not earlier than three hundred sixty-five days prior to
7 29 the date submitted to the department, prepared in accordance
7 30 with generally accepted accounting principles, and audited or
7 31 reviewed by an independent certified public accountant
7 32 licensed to practice in the jurisdiction in which such
7 33 accountant is located. A professional employer organization
7 34 group may submit combined or consolidated audited or reviewed
7 35 financial statements to meet the requirements of this section.

8 1 3. INITIAL REGISTRATION. Each professional employer
8 2 organization operating within this state as of July 1, 2005,
8 3 shall complete its initial registration not later than one
8 4 hundred eighty days after July 1, 2005. Such initial
8 5 registration shall be valid until the end of the professional
8 6 employer organization's first fiscal year that is more than
8 7 one year after July 1, 2005. Each professional employer
8 8 organization not operating within this state as of July 1,
8 9 2005, shall complete its initial registration prior to
8 10 commencement of operations within this state.

8 11 4. RENEWAL. Within one hundred eighty days after the end
8 12 of a registrant's fiscal year, such registrant shall renew its
8 13 registration by notifying the department of any changes in the
8 14 information provided in such registrant's most recent
8 15 registration or renewal.

8 16 5. GROUP REGISTRATION. Any two or more professional
8 17 employer organizations held under common control of any other
8 18 person or persons acting in concert may be registered as a
8 19 professional employer organization group. A professional
8 20 employer organization group may satisfy any reporting and
8 21 financial requirements of this chapter on a consolidated
8 22 basis.

8 23 6. LIMITED REGISTRATION. A professional employer
8 24 organization is eligible for a limited registration under this
8 25 chapter if all of the following apply:

8 26 a. The professional employer organization submits a
8 27 properly executed request for limited registration on a form
8 28 provided by the department.

8 29 b. The professional employer organization is domiciled
8 30 outside this state and is licensed or registered as a
8 31 professional employer organization in another state that has
8 32 substantially the same or greater requirements as this
8 33 chapter.

8 34 c. The professional employer organization does not
8 35 maintain an office in this state or directly solicit clients
9 1 located or domiciled within this state.

9 2 d. The professional employer organization does not have
9 3 more than fifty covered employees employed or domiciled in
9 4 this state on any given day.

9 5 A limited registration is valid for one year and may be
9 6 renewed. A professional employer organization seeking limited
9 7 registration under this subsection shall provide the
9 8 department with information and documentation necessary to
9 9 show that the professional employer organization qualifies for
9 10 a limited registration. Section 95.6, subsection 1, shall not
9 11 apply to applicants for limited registration.

9 12 7. ALTERNATIVE REGISTRATION. The department may by rule
9 13 and regulation provide for the acceptance of an affidavit or
9 14 certification of a bonded, independent, and qualified
9 15 assurance organization that has been approved by the director
9 16 certifying qualifications of a professional employer

9 17 organization in lieu of the requirements of this section and
9 18 section 95.6.

9 19 8. LIST. The department shall maintain a list of
9 20 professional employer organizations registered under this
9 21 chapter.

9 22 9. FORMS. The department may prescribe forms necessary to
9 23 promote the efficient administration of this section.

9 24 10. RECORD CONFIDENTIALITY. All records, reports, and
9 25 other information obtained from a professional employer
9 26 organization under this chapter, except to the extent
9 27 necessary for the proper administration of this chapter by the
9 28 department, shall be confidential and shall not be published
9 29 or open to public inspection other than to public employees in
9 30 the performance of their public duties.

9 31 Sec. 5. NEW SECTION. 95.5 FEES.

9 32 1. INITIAL REGISTRATION. Upon filing an initial
9 33 registration application under this chapter, a professional
9 34 employer organization shall pay an initial registration fee
9 35 not to exceed five hundred dollars.

10 1 2. RENEWAL. Upon each annual renewal of a registration
10 2 under this chapter, a professional employer organization shall
10 3 pay a renewal fee not to exceed two hundred fifty dollars.

10 4 3. LIMITED REGISTRATION. Each professional employer
10 5 organization seeking limited registration under the terms of
10 6 this chapter shall pay a fee in an amount not to exceed two
10 7 hundred fifty dollars upon initial application for limited
10 8 registration and upon each annual renewal of such limited
10 9 registration.

10 10 4. ALTERNATIVE REGISTRATION. A professional employer
10 11 organization seeking alternative registration shall pay an
10 12 initial and annual fee not to exceed two hundred fifty
10 13 dollars.

10 14 5. OTHER FEES. The department shall adopt by rule any
10 15 other fee to be charged under this chapter. Such fees shall
10 16 not exceed those reasonably necessary for the administration
10 17 of the duties of the department under this chapter.

10 18 Sec. 6. NEW SECTION. 95.6 FINANCIAL CAPABILITY.

10 19 Each professional employer organization shall maintain
10 20 either of the following:

10 21 1. A minimum net worth of fifty thousand dollars as
10 22 reflected in the financial statements submitted to the
10 23 department with the initial registration application and each
10 24 annual renewal.

10 25 2. A bond, securities, or bank letter of credit with a
10 26 minimum value of fifty thousand dollars held by a depository
10 27 designated by the department, securing payment by the
10 28 professional employer organization of all taxes, wages,
10 29 benefits, or other entitlement due to or with respect to
10 30 covered employees, if the professional employer organization
10 31 does not make such payments when due. Any bond or securities
10 32 deposited under this subsection shall not be included for the
10 33 purpose of calculation of the minimum net worth required by
10 34 this section.

10 35 Sec. 7. NEW SECTION. 95.7 GENERAL REQUIREMENTS AND
11 1 PROVISIONS.

11 2 1. CONTRACTUAL RELATIONSHIP. Except as specifically
11 3 provided in this chapter, the coemployment relationship
11 4 between the client and the professional employer organization,
11 5 and between each coemployer and each covered employee, shall
11 6 be governed by the professional employer agreement.

11 7 a. Nothing contained in any professional employer
11 8 agreement or this chapter shall be deemed to do any of the
11 9 following:

11 10 (1) Diminish, abolish, or remove rights of covered
11 11 employees as to clients or obligations of such client as to a
11 12 covered employee existing prior to the effective date of a
11 13 professional employer agreement.

11 14 (2) Terminate an employment relationship existing prior to
11 15 the effective date of a professional employer agreement.

11 16 (3) Create any new or additional enforceable right of a
11 17 covered employee against a professional employer organization
11 18 not specifically allocated to such professional employer
11 19 organization in the professional employer agreement or this
11 20 chapter.

11 21 b. Each professional employer agreement shall include all
11 22 of the following:

11 23 (1) The professional employer organization shall reserve a
11 24 right of direction and control over the covered employees,
11 25 provided that the client may retain the right to exercise such
11 26 direction and control over covered employees as is necessary
11 27 to conduct the client's business, to discharge any fiduciary

11 28 responsibility which it may have, or to comply with any
11 29 applicable licensure requirements.

11 30 (2) The professional employer organization shall have the
11 31 responsibility to pay agreed-upon wages to covered employees;
11 32 to withhold, collect, report, and remit payroll-related and
11 33 unemployment taxes; and, to the extent the professional
11 34 employer organization has assumed responsibility in the
11 35 professional employer agreement, to make payments for employee
12 1 benefits for covered employees. As used in this subparagraph,
12 2 "wages" does not include any obligation between a client and a
12 3 covered employee for payments beyond or in addition to the
12 4 covered employee's salary, draw, or regular rate of pay, such
12 5 as bonuses, commissions, severance pay, deferred compensation,
12 6 profit sharing or vacation, sick or other paid time-off pay,
12 7 unless the professional employer organization has expressly
12 8 agreed to assume liability for such payments in the
12 9 professional employer agreement.

12 10 (3) The professional employer organization and the client
12 11 shall both have a right to hire, terminate, and discipline the
12 12 covered employees.

12 13 (4) The responsibility to obtain workers' compensation
12 14 coverage for covered employees, from a carrier licensed to do
12 15 business in this state and otherwise in compliance with all
12 16 applicable requirements, shall be specifically allocated to
12 17 either the client or the professional employer organization.

12 18 2. ALLOCATION OF RIGHTS, DUTIES, AND OBLIGATIONS. Except
12 19 as specifically provided in this chapter or in the
12 20 professional employer agreement, in each coemployment
12 21 relationship, all of the following shall apply:

12 22 a. The client shall be entitled to exercise all rights and
12 23 shall be obligated to perform all duties and responsibilities
12 24 otherwise applicable to an employer in an employment
12 25 relationship.

12 26 b. The professional employer organization shall be
12 27 entitled to exercise only those rights, and obligated to
12 28 perform only those duties and responsibilities, specifically
12 29 required by this chapter or set forth in the professional
12 30 employer agreement. The rights, duties, and obligations of
12 31 the professional employer organization as coemployer with
12 32 respect to any covered employee shall be limited to those
12 33 arising pursuant to the professional employer agreement and
12 34 this chapter during the term of coemployment by the
12 35 professional employer organization of such covered employee.

13 1 c. Unless otherwise expressly agreed by the professional
13 2 employer organization and the client in a professional
13 3 employer agreement, the client retains the exclusive right to
13 4 direct and control the covered employees as is necessary to
13 5 conduct the client's business, to discharge any of the
13 6 client's fiduciary responsibilities, or to comply with any
13 7 licensure requirements applicable to the client or to the
13 8 covered employees.

13 9 3. NOTICE TO COVERED EMPLOYEES. With respect to each
13 10 professional employer agreement entered into by a professional
13 11 employer organization, such professional employer organization
13 12 shall provide written notice to each covered employee affected
13 13 by such agreement of the general nature of the coemployment
13 14 relationship between and among the professional employer
13 15 organization, the client, and such covered employee. Such
13 16 notice shall include notice to the employees of the client's
13 17 and the professional employer organization's obligations under
13 18 this section.

13 19 4. LIMITATIONS ON LIABILITY. Except to the extent
13 20 otherwise expressly provided by a professional employer
13 21 agreement, all of the following shall apply:

13 22 a. A client shall be solely responsible for the quality,
13 23 adequacy, or safety of the goods or services produced or sold
13 24 in the client's business.

13 25 b. A client shall be solely responsible for directing,
13 26 supervising, training, and controlling the work of the covered
13 27 employees with respect to the business activities of the
13 28 client and solely responsible for the acts, errors, or
13 29 omissions of the covered employees with regard to such
13 30 activities.

13 31 c. A client shall not be liable for the acts, errors, or
13 32 omissions of a professional employer organization, or of any
13 33 covered employee of the client and a professional employer
13 34 organization when such covered employee is acting under the
13 35 express direction and control of the professional employer
14 1 organization.

14 2 d. Nothing in this subsection shall serve to limit any
14 3 contractual liability or obligation specifically provided in a

14 4 professional employer agreement, nor shall this subsection in
14 5 any way limit the liabilities and obligations of any
14 6 professional employer organization or client as defined
14 7 elsewhere in this chapter.

14 8 e. A covered employee is not, solely as the result of
14 9 being a covered employee of a professional employer
14 10 organization, an employee of the professional employer
14 11 organization for purposes of general liability insurance,
14 12 fidelity bonds, surety bonds, employer's liability which is
14 13 not covered by workers' compensation, or liquor liability
14 14 insurance carried by the professional employer organization
14 15 unless the covered employee is included by specific reference
14 16 in the professional employer agreement and applicable
14 17 prearranged employment contract, insurance contract, or bond.

14 18 5. SERVICES NOT INSURANCE. A registrant under this
14 19 chapter is not engaged in the sale of insurance by offering,
14 20 marketing, selling, administering, or providing professional
14 21 employer organization services or employee benefit plans for
14 22 covered employees.

14 23 6. TAXATION. Covered employees whose services are subject
14 24 to sales tax shall be deemed the employees of the client for
14 25 purposes of collecting and levying sales tax on the services
14 26 performed by the covered employee. Nothing contained in this
14 27 chapter shall relieve a client of any sales tax liability with
14 28 respect to its goods or services. Any tax upon professional
14 29 employer services shall be limited to the administrative fee.

14 30 Sec. 8. NEW SECTION. 95.8 BENEFIT PLANS.

14 31 1. A client and a professional employer organization shall
14 32 each be deemed an employer for purposes of sponsoring
14 33 retirement and welfare benefit plans for its covered
14 34 employees.

14 35 2. A fully insured welfare benefit plan offered to the
15 1 covered employees of a single professional employer
15 2 organization shall be considered a single employer welfare
15 3 benefit plan and shall not be considered a multiple employer
15 4 welfare arrangement as defined in section 3 of the federal
15 5 Employee Retirement Income Security Act of 1974, 29 U.S.C. }
15 6 1002, paragraph 40, and referred to in section 507A.4.

15 7 3. If a professional employer organization offers to its
15 8 covered employees any health benefit plan which is not fully
15 9 insured by an authorized insurer, the plan shall do all of the
15 10 following:

15 11 a. Utilize a third-party administrator licensed to do
15 12 business in this state.

15 13 b. Hold all plan assets, including participant
15 14 contributions, in a trust account.

15 15 c. Provide sound reserves for such plan as determined
15 16 using generally accepted actuarial standards.

15 17 Sec. 9. NEW SECTION. 95.9 WORKERS' COMPENSATION.

15 18 1. The responsibility to obtain workers' compensation
15 19 coverage for covered employees, from a carrier licensed to do
15 20 business in this state and otherwise in compliance with all
15 21 applicable requirements, shall be specifically allocated in
15 22 the professional employer agreement to either the client or
15 23 the professional employer organization. If such
15 24 responsibility is allocated to the professional employer
15 25 organization under any such agreement, such agreement shall
15 26 require that the professional employer organization maintain
15 27 and provide to the client, at the termination of the agreement
15 28 if requested by the client, records regarding the loss
15 29 experience related to workers' compensation insurance provided
15 30 to covered employees pursuant to such agreement.

15 31 2. Both the client and the professional employer
15 32 organization shall be considered the employer for the purpose
15 33 of coverage under the workers' compensation laws provided in
15 34 chapters 85, 85A, and 85B, and both the professional employer
15 35 organization and its client shall be entitled to protection of
16 1 the exclusive remedy provision in section 85.20, irrespective
16 2 of which coemployer obtains such workers' compensation
16 3 coverage.

16 4 Sec. 10. NEW SECTION. 95.10 UNEMPLOYMENT COMPENSATION
16 5 INSURANCE.

16 6 For purposes of the Iowa employment security law in chapter
16 7 96, covered employees of a registered professional employer
16 8 organization are considered the employees of the client. The
16 9 professional employer organization shall be responsible for
16 10 the payment of contributions, penalties, and interest on wages
16 11 paid by the professional employer organization to its covered
16 12 employees during the term of the applicable professional
16 13 employer agreement.

16 14 Sec. 11. NEW SECTION. 95.11 SEVERABILITY.

16 15 The provisions of this chapter are severable. If any
16 16 provision of this chapter, or application thereof to any
16 17 person or circumstance, is held invalid, such invalidity shall
16 18 not affect other provisions or applications of this chapter
16 19 which can be given effect without the invalid provision or
16 20 application.

16 21 EXPLANATION

16 22 This bill creates the professional employer organization
16 23 recognition and registration Act in new Code chapter 95. A
16 24 professional employer organization is required to register
16 25 annually with the department of workforce development as
16 26 provided in the bill. The bill provides requirements for the
16 27 application, renewal, confidentiality, applicable fees, and
16 28 proof of financial capability regarding the registration of
16 29 professional employer organizations.

16 30 The bill provides for the rights, duties, and obligations
16 31 of professional employer organizations doing business in this
16 32 state. The bill provides that the relationship between a
16 33 professional employer organization and its client must be
16 34 governed by a professional employer agreement which must
16 35 contain information regarding the rights of the professional
17 1 employer organization and the client, allocate certain
17 2 obligations of the professional employer organization and the
17 3 client, and may not affect rights under collective bargaining
17 4 agreements, licensing requirements, tax credits, or other
17 5 government incentives. The professional employer organization
17 6 must provide notice to each of its employees covered by a
17 7 professional employer agreement of the obligations of the
17 8 professional employer organization and the client under the
17 9 agreement. The bill allocates liability and limits of
17 10 liability for certain actions and responsibilities of the
17 11 client and the professional employer organization.

17 12 The bill specifies when either the client or professional
17 13 employer organization or both are considered the employer
17 14 under laws governing taxation, retirement and health benefit
17 15 plans, workers' compensation, and unemployment insurance. The
17 16 bill provides definitions of terms used in the chapter and
17 17 that the provisions of the chapter are to be considered
17 18 severable if any portion is held invalid.

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